

## **REMARKS**

Claims 1-15, 18-21, & 24-30 are pending with Claims 1 and 24 presently amended, claims 25-30 new, and claims 16-17 and 22-23 cancelled. Claims 1 and 25 are patentable over Franzee in view of Don Michael. Neither Franzee nor Don Michael comprises an occluding means as claimed. In the Office action of 08/22/08 the Examiner explained that he believed element 127 of Franzee (the septum valve) was equivalent to the second occluding means of the claimed invention. Claim 1 (as amended) and new Claim 25 require a second occluding means to comprise an occluding body slideably disposed within the main cavity and an insertion cable connected to the occluding body for allowing the insertion and positioning of the occluding body within the main cavity. Franzee discusses the structure of his septum valve in Col. 5, ll. 29-37. He says

In a preferred embodiment, the hole 125 is at least partially blocked by a septum valve 127 having a slit 130 which extends therethrough. When the catheter 10 is being inserted, the guidewire 18 extends through the hole 125 and the slit 130 in the septum valve 127. Once the catheter 10 is operatively positioned, the guidewire 18 is removed and the slit 130 closes substantially blocking the hole 125. This facilitates perfusion of the oxygenated blood through the ports 114-118 in the operative region 42.

The part that the Examiner identified as the occluding means (the Franzee septum valve) does not have a slideably disposed occluding body, nor does the septum valve has an insertion body. Thus Franzee does not anticipate Claims 1 or 25. The Examiner's proposed combination of Franzee in view of Don Michael does not render the invention of Claims 1 or 25 obvious either, because even these patents were combined as proposed by the Examiner, the combined device would not have a second occluding means as claimed. Therefore Claims 1 and 25 are patentable over Franzee in view of Don Michael.

## **RESTRICTION**

Claims 1, 25, 27, & 29 all share the same "special technical feature," i.e. the second occluding means as claimed. Previously, the Examiner argued that there was no "special" technical feature in the claims. Claims 27 and 29 are dependant on Claims 1 and 25 each of which incorporate the "special technical feature" the second occluding means. Thus the

restriction requirement imposed in the Office action 07/10/08 should be withdrawn by the Examiner.

### Conclusion

In view of the foregoing, the Applicants respectfully request that the Examiner consider the claims as amended for examination on the merits. A timely allowance of the pending claims is requested. If there are any fees (such as necessary extension of time or extra claims fees) due in connection with the filing of this Response and Amendment which are not covered by the concurrently submitted transmittal document, please charge any necessary fees or credit any overpayments to Deposit Account No. 50-1349. The Examiner is invited to contact Applicants' undersigned attorneys and agents by telephone to discuss any matters if the Examiner feels such discussions may expedite the progress of the present application toward allowance.

Respectfully submitted,

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